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**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

In re:
 USA SECURITIES, LLC,
 Debtor.

Case Nos. BK-S-06-10725 LBR
 Case Nos. BK-S-06-10726 LBR
 Case Nos. BK-S-06-10727 LBR
 Case Nos. BK-S-06-10728 LBR
 Case Nos. BK-S-06-10729 LBR

Chapter 11

**JOINT EMERGENCY MOTION
 FOR ORDER RELATED TO
 IMPLEMENTATION OF
 CONFIRMED PLAN
 (AFFECTS ALL DEBTORS)**

Date: February 15, 2007 **OST Requested**
 Time: 9:30 a.m.

1 Affects:

- 2 ☒ All Debtors
 3 ☐ USA Commercial Mortgage Company
 4 ☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA First Trust Deed Fund, LLC

5 Debtors USA Commercial Mortgage Company (“USACM”), USA Capital First Trust
 6 Deed Fund (“FTDF”), USA Capital Diversified Trust Deed Fund, LLC (“DTDF”), USA Capital
 7 Realty Advisors, LLC (“USA Realty”), and USA Securities, LLC (“USA Securities”)
 8 (collectively, the “Debtors”), and the Official Unsecured Creditors’ Committee for USA
 9 Commercial Mortgage Company (“USACM Committee”), the Official Committee of Equity
 10 Security Holders of USA Capital First Trust Deed Fund, LLC (“FTDF Committee”), the Official
 11 Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC
 12 (“DTDF Committee”) and the Official Committee of Holders of Executory Contracts Rights
 13 through USA Commercial Mortgage Company (“Direct Lenders Committee”) (collectively, the
 14 “Committees” and collectively with the Debtors the “Movants”), by and through their counsel
 15 and pursuant to Section 1142 of the Bankruptcy Code, Article VIII, Section D of the “Debtors’
 16 Third Amended Joint Chapter 11 Plan of Reorganization” (“Plan”), and the “Order Confirming
 17 the ‘Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization,’ as Modified Herein”
 18 (“Confirmation Order”), hereby respectfully request that the Court grant this Motion and enter an
 19 order authorizing certain matters related to the implementation of the confirmed Plan as set forth
 20 below. Movants have consulted with the Office of The United States Trustee which does not
 21 object to the relief requested herein and supports this Court rendering a decision on the Motion
 22 on an emergency basis.

23 This motion seeks entry of an order on an emergency basis, because part of the relief
 24 requested relates to a condition precedent of the Compass sale closing, which must occur by
 25 February 16, 2006, under the terms of the Plan and Confirmation Order. By this Motion the
 26 Movants request entry of an order pursuant to Section 1142(b) of the Bankruptcy Code to
 27 implement the Plan by confirming that USACM can continue to exist for 60 to 90 days after the
 28 Effective Date of the Plan.

1 In support hereof Movants state as follows: Unless otherwise stated, all capitalized terms
2 used herein are defined in the confirmed Plan or the Confirmation Order.

3 **STATEMENT OF FACTS**

4 1. On April 13, 2006 ("Petition Date"), the Debtors filed petitions for relief under
5 chapter 11 of the Bankruptcy Code. By order entered June 9, 2006, the Court approved the joint
6 administration of the Debtors' chapter 11 cases. Effective as of the Petition Date, Mesirow
7 Financial Interim Management, LLC ("Mesirow") has been employed as crisis managers to the
8 Debtors, and Thomas J. Allison of Mesirow has served as the Debtors' Chief Restructuring
9 Officer ("CRO").

10 2. On January 8, 2007, the Court entered the Confirmation Order, confirming the
11 Debtors' Plan and approving certain documents filed in conjunction with the Plan, including the
12 USACM Trust Agreement, and the Asset Purchase Agreement dated December 8, 2006 with
13 Compass Partners, LLC ("Compass" and "Purchase Agreement").

14 3. USACM as Debtor-in-possession currently holds a mortgage broker license that
15 expires on June 30, 2007, subject to conditions set forth in that certain Final Order Conditioning
16 Mortgage Broker's License entered by the Nevada Department of Business and Industry,
17 Division of Mortgage Lending ("MLD") on or about June 9, 2006.

18 4. The Purchase Agreement provides that the sale to Compass must close by
19 February 16, 2007. The Purchase Agreement also provides in part that one condition of closing
20 the sale transaction is:

21 9.1(j) Purchaser shall have actually obtained an interim license to operate in the
22 State of Nevada or an exemption, satisfactory to Purchaser in all reasonable
23 respects by no later than the Closing Date, from any and all applicable Nevada
24 laws or regulations that would require any licensing of Purchaser and affiliate of
25 Purchaser identified by Purchaser by the State of Nevada in connection with or as
26 a result of consummation of this transaction. Sellers shall provide reasonable
27 cooperation and support to Purchaser in connection with its effort to obtain such
28 interim license or exemption. The condition to the timing of the obtaining of this
interim license or regulatory exemption may be extended by the Sellers at their
sole discretion.

5. Nevada state law requires that a mortgage servicing company be licensed, or
exempt from licensing, under NRS § 645B. Compass has applied for a license, but more time is

1 required for the MLD to process the Compass application. The MLD estimates the application
2 processing will require another 60 days.

3 6. There is no provision in Nevada state law for an “interim license” per se. The
4 MLD has confirmed that interim arrangements may be made by Compass operating the mortgage
5 servicing business through USACM, using its existing license as a sub-servicer. MLD has also
6 confirmed that it will not object to that arrangement, even though USACM’s assets will be
7 transferred to Compass and to the USACM Trust on the Closing Date and Plan Effective Date,
8 respectively, except for Non-Trust Cash, consisting of funds held for the purpose of paying
9 administrative, priority, and secured claims.

10 7. As set forth below, the Plan provides for an orderly wind down of the Debtors’
11 affairs after the sale to Compass and the Effective Date. However, the Plan does not explicitly
12 provide guidance as to who and how such wind down will be facilitated. It is imperative that
13 USACM continue to exist for a period of no longer than 90 days after the Effective Date of the
14 Plan for the purpose of acting as sub-servicer for Compass under USACM’s existing license,
15 pending a decision by MLD on the Compass license application, and to enable Compass to
16 transition to other loan servicing arrangements if its application is denied. .

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 Section 1142(b) of the Bankruptcy Code provides that

19 (b) The court may direct the debtor and any other necessary party to execute
20 or deliver or to join in the execution or delivery of any instrument required to
21 effect a transfer of property dealt with by a confirmed plan, and to perform any
22 other act, including the satisfaction of any lien, that is necessary for the
23 consummation of the plan.

24 The relief requested by way of this Motion does not conflict with the terms of the Confirmed
25 Plan. Article 8(L)(1) of the Plan provides:

26 USACM shall have authority to take actions on behalf of USACM and the
27 USACM Estate on and after the Effective Date until the date that the USACM
28 Trustee is appointed for the USACM Trust. After the USACM Trust Assets are
transferred to the USACM Trust and the USACM Trust becomes effective in
accordance with this Plan and the USACM Trust Agreement, USACM shall be
dissolved in accordance with the Confirmation Order and applicable state law.

1 Plan, Art. VIII, Section L.1; see Confirmation Order ¶ 69 (“As soon as practicable [after the
 2 USACM Trust becomes effective], USACM shall be dissolved in accordance with the
 3 Confirmation Order and applicable state law.”)

4 Among other tasks to be administered on behalf of Debtors’ Estates include: (1) the making of
 5 distributions to various creditors and equity holders in each of the five cases; (2) objections to
 6 administrative expense claims (after the bar date of 30 days after the Effective Date passes) and
 7 priority claims; (3) provide distribution to these claimants; and (4) to wind up and dissolve
 8 USACM in accordance with State law. The Plan, while silent as to explicit authority,
 9 contemplates that USACM would exist for some short time after the Effective Date to effect
 10 certain ministerial tasks necessary to be completed under the Plan.
 11

12 The relief requested herein is also consistent with the terms of the Confirmation order that
 13 provides in relevant part:

14 The Debtors, the Debtors’ officers, the USACM Trustee and the DTDF
 15 Administrator are authorized to take all actions necessary to implement the Plan
 16 and the transactions contemplated therein in accordance with the terms of the
 17 Plan, and are authorized to execute deliver, file or record such contracts,
 18 instruments, releases, and other agreements or documents and to take such other
 19 actions a they may determine to be necessary or appropriate to effectuate
 20 implement and further evidence the terms an d conditions of the Confirmation
 21 Order, the Plan, the Plan Document Supplement, the Direct Lender Supplement,
 22 or the exhibits and schedules to any of the foregoing.

23 See Confirmation Order paragraph 41.

24 **REQUEST FOR RELIEF**

25 Movants request that the Court enter its order authorizing USACM to continue to exist
 26 after the Effective Date for a period of no more than 90 days for the purpose of acting as sub-
 27 servicer for Compass under USACM’s existing license, pending a decision by MLD on the
 28 Compass license application, and to enable Compass to transition to other loan servicing
 arrangements if its application is denied. A copy of this emergency motion is being served on

1 the Deputy Attorney General with responsibility for the MLD with respect to this matter,
2 Richard Dreitzer.

3 DATED February 14, 2007.

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